IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

APPLICATION NO.664 OF 2007
[Leave to Appeal]
IN
APPEAL NO. OF 2007

The State of Maharashtra ..Applicant

Vs.

Ajay Manik Shinde and 3 Ors...Respondents

...

Mr.A.S.Gadkari APP for the Applicant-State
Mr.Sachin Thombare for Respondent Nos.1 to 4

...

**CORAM: R.M.S.KHANDEPARKAR, AND
SMT.V.K.TAHILRAMANI, JJ.**

DATE : SEPTEMBER 11, 2007

P.C.[PER SMT.V.K.TAHILRAMANI,J.]:

1. Heard the learned APP for the State.

2. The appellant has challenged the judgment and order dated 16th August, 2006 passed by the learned 4th Ad-hoc Addl. Sessions Judge, Pune in Sessions Case No.316 of 2005 thereby acquitting the Respondents of the offences under Sections 143,

147, 148, 302 r.w. 149 of IPC and offence under Section 4 r.w. Section 25 of the Arms Act and offence under Section 37[1) r.w. Section 135 of the B.P.Act.

3. The prosecution story briefly stated, is as under:

. The complainant P.W.1 Vrandavan Pardeshi is the father of deceased Mukesh. It is the prosecution case that on account of previous enmity, the Respondent No.1 along with other Respondents assaulted deceased Mukesh by means of ‘Koyata’ and ‘sword’ and killed him.

. We have perused the judgment and order as well as the evidence which was produced by the learned APP. After perusing the evidence, it is seen that no eye witness implicates any of the respondents. As far as Respondent Nos. 2 to 4 are concerned, there is no recovery at their instance nor is there any other incriminating circumstance against them. As far as Respondent No.1 is concerned, the only incriminating circumstance against him is recovery of weapons at his instance. No eye witness has

implicated him nor is there any other material against him which connects him with the crime. As far as recovery is concerned, the CA report does not conclusively connect the Respondent No.1 with the crime. Looking to the evidence on record, we are of the opinion that the view taken by the learned Sessions Judge acquitting the Respondents of the offences charged is a reasonable and possible view.

4. It is well settled that if the view of acquittal could have been reasonably arrived at then the mere circumstance that the appellate Court would have taken a different view, would be no ground to interfere. In this connection, there is no dearth of authorities but to eschew prolixity, we are referring to only two of them i.e. **AIR 1971 S.C. 66 Khedu Mohton and Ors. Vs. State of Bihar and C. Anthony Vs. K.G.Raghavan Nair (2003) 1 SCC 1.** In the case of **C.Anthony**, the Supreme Court has observed that unless the findings of the trial Court are perverse or contrary to the material on record, the High Court cannot in appeal substitute its findings, merely because another contrary opinion was possible on the basis of material on

record. As stated earlier, the view taken by the learned Judge is a reasonable and possible view, hence, no interference is called for.

5. In this view of the matter, application for leave to appeal is rejected.

[R.M.S.KHANDEPARKAR, J.]

[SMT.V.K.TAHILRAMANI,J.]